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people that make mistakes. Because mistakes are committed, it should not be said that we should not make any changes at all. As far as the voting system is concerned, we are bound to make changes, bound to make experiments until we finally arrive at a formula of marking against the name on the ballot paper which is the best. Let not hon. Members go away with the impression that these changes are made with some ulterior motives. The only motive is the education of the voter in the art of voting."

MR. CHAIRMAN :—" The question is—

'That the Madras District Boards (Second Amendment) Bill, 1954 (L.A. Bill No. 31 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clause 2 was put and carried.

Clause 1 and the Preamble were put and carried.

* THE HON. SRI S. S. RAMASWAMI PADAYATCHI :—" Mr. Chairman, Sir, I move—

'That the Madras District Boards (Second Amendment) Bill, 1954 (L.A. Bill No. 31 of 1954), as passed by the Assembly, be passed into law.' "

MR. CHAIRMAN :—" The question is—

'That the Madras District Boards (Second Amendment) Bill, 1954 (L.A. Bill No. 31 of 1954), as passed by the Assembly, be passed into law.' "

The motion was carried and the Bill was passed into law.

* DR. V. K. JOHN :—" I want to pay a compliment to the Hon. Minister Sri C. Subramaniam for his very clever speech but regret I am not persuaded by it and I still oppose the Bill."

* THE HON. SRI C. SUBRAMANIAM :—" May I know whether the hon. Member is entitled to say after the Hon. Chairman has stated that the Bill has been passed into law that he is still opposing it? " (Laughter.)

(5) THE MADRAS ESTATES LAND (REDUCTION OF RENT) BILL[*], 1954 (L.A. BILL NO. 32 OF 1954).

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I move—

'That the Madras Estates Land (Reduction of Rent) Amendment Bill, 1954 (L.A. Bill No. 32 of 1954), as passed by the Assembly, be taken into consideration.'

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* Printed as Appendix VI on pages 525–526 infra.

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" This is a short and simple amending Bill. Hon. Members will remember that the Madras Estates Land (Reduction of Rent) Act was passed in the year 1947 in order to reduce the rents paid by ryots because it was thought that the rents paid by them under the old Estates Land Act were very heavy. One of the provisions under the Estates Land (Reduction of Rent) Act, 1947, namely, Section 5, provides that in the matter of reducing the rate of rent if there is a difference between the reduced rate and the rate originally prevailing, the difference will be made good in the case of religious institutions, charitable institutions and bodies like that.

4-10 p.m. " The idea is that the institution should not suffer on account of the reduction in the rate of rent. The Government are giving effect to it and they are not making any change in that respect. The change that is sought to be made is in respect of certain other reductions which arise not on account of the reduction in the rate of rent but loss of rent due to reduction in the extent of land cultivated or loss of water rate when water is not taken for cultivation. If any reduction takes place in these two respects, that is, reduced extent of cultivated land or water rate not being charged, then I must say the Government are not obliged to make good the difference. That is the spirit behind the Estates Land (Reduction of Rent) Act, 1947, and that is why this amending Bill has been brought before the House. In these two cases, the Government need not make good the difference. Effect is given to this in the Bill from fasli 1357."

MR. CHAIRMAN :—" Motion moved—

'That the Madras Estates Land (Reduction of Rent) Amendment Bill, 1954 (L.A. Bill No. 32 of 1954), as passed by the Assembly, be taken into consideration.' "

* SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, this measure has been introduced for the purpose of paying less compensation than is really proper or necessary. The old Act proceeds on the principle that the Provincial Government shall make good to religious, educational or charitable institutions which were proprietors of the land any amount which is reduced, the difference being calculated between the amount that is now payable from fasli 1357 and the average net income derived from such educational, religious or charitable institutions during the first five fasli years preceding the fasli year 1357. That was the principle for the payment of the reduced amount to religious, educational or charitable institutions. The average of the previous five years' income was taken into account to arrive at the net income. If, on account of the reduced rent, there was a difference between this average net income and the reduced rent, then the Provincial Government should make good that amount. This was a good and reasonable provision. Now they want to change

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it in two ways. First, they want to say that they shall pay to the institution at the end of the fasli year in question the difference between the net income derived by the institution in such fasli year, not the average net income to be calculated on the net incomes derived for the previous five years, and the net income which the institution would have derived in such fasli year if the rates of rent had not been reduced under the provisions of the Act. Apart from the reduction of rent due to the operation of the Act, the Government are afraid that there may be other reasons for reduced income in that fasli year. Therefore they want to indicate that only the difference on account of the operation of this Act and consequent reduction of rent alone is payable by the Government. If there were reductions on account of other considerations, the difference is not payable by the Government. That is the net effect of this Bill. How is this reasonable, I would like to know. Net income for the previous fasli of the fasli year in question cannot be the criterion. The proper thing is for the average to be taken. That is a more reasonable provision than taking the net income for that year. Naturally the affected party would say that this probable net income for the previous year was governed by various other factors and all that. Therefore they are afraid and they want to introduce this provision in the Bill. My submission is that the pervious position taken by Government was perfectly good. When the average is taken, the probable loss due to other factors will be only in one year and will not be taken account of, because only the average of five years is to be taken. If the average is taken, all these other considerations will be completely removed. That is the object in taking the average over a number of years. There may be many factors which go into the consideration of the extent of the reduction of rent. Therefore, it is that we take the average of the previous five years, in order to find out the net income.

"Then, Sir, there is another provision in the Bill, namely, 'notwithstanding anything contained in any law, contract or decree or order of Court to the contrary . . . the excess shall be adjusted to the rents payable to the later fasli year'. When we wanted a similar provision to be made in the Hindu Religious Endowments Bill, the Government said 'no' to it. In that case the State had to pay and so they said 'no'. Now they want such a provision because they have to pay to the proprietors any excess amount which is not chargeable according to the provisions of the Act. When the people are concerned they make one rule and when the Government are concerned they make quite a different rule. It seems to be a little unjust that Government should adopt such a procedure. The Hon. Minister might say: 'I will not take account of all the things you mention'. I would only appeal to the Hon. Minister to be reasonable in these matters. This is a wrong principle to introduce in a legislation. After all these are religious, educational and charitable institutions. They are not landlords. All through the country, there is a cry for land

reforms. I know they are bound to be expropriated. But that is a different matter. I am not going into it now. We are now dealing with religious, educational and charitable institutions. They need not be hanged in the name of landlords. When the Government are prepared to pay in the matter of 'tasdik' allowances, they can very well pay the difference on the average net income and the amount that is payable as a result of the reduction of rent. I do not know the exact difficulty of Government in paying this difference. I thought over the matter and I could not yet understand the real difficulty of the Government in this matter. Why should they change the average net income for the last five years before fasli 1357? That was a very reasonable and proper provision. The influence of other factors will be taken away, if that procedure were adopted. Suppose there was a drought in one year and consequent failure of crops and all that. The effect of the failure of the crop would be removed if the Government adopted the average of the past five years, because it is only the average net income.

"Then, Sir, it has become very common in all our legislations to give retrospective effect. We do not want to refer to this aspect of the matter any more in the Legislative Council, because in spite of our objections, every provision is given retrospective effect. Sub-clause (2) of Clause 1 says: 'Section 2 shall be deemed to have come into force on the 7th January 1948'. And in Clause 3, contracts, decrees and orders passed by Courts are sought to be ignored although they are perfectly valid and legal. Government say: 'notwithstanding anything contained in any law, contract or decree or order of Court to the contrary, the excess shall be adjusted towards the amount payable for any later fasli year, whether before or after the commencement of this Act.' I submit that this legislation proceeds on three or four
4-20 p.m. wrong principles. That is why I object to it. I would like to be enlightened by the Hon. the Minister for Revenue on one point. I would very much like him to explain what are the difficulties in calculating the average net income for five years. If it is for one year, I think, there will be difficulty. But, when the average for five years is taken into account, I fail to see what difficulty there can be. As retrospective effect is also given, it enables the Government to take back the money which they paid to them properly and legally at that time. This is very wrong."

* DR. V. K. JOHN :—"Mr. Chairman, Sir, I very strongly support the criticisms made by my hon. Friend Sri Balasubramanya Iyer. I do not want to repeat them. When the Estates Land (Reduction of Rent) Act, 1947, was passed, I was strongly of the opinion that religious, educational and charitable institutions ought to have been exempted from the Act. The Government did not exempt them. They made a provision for adjustment and for payment of a suitable compensation by Government wherever the institution had loss. The Government have now brought

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forward a measure to nullify the effect of the Act of 1947. This will be against the interests of the institutions and it is not becoming of any civilized Government to bring in a measure of this kind which prejudices and prejudices very harshly the religious, educational and charitable institutions which they should have, in all humility, left alone."

* SRI T. M. NARAYANASWAMY PILLAI :—" Mr. Chairman, Sir, I am at a loss to understand the principle behind this Bill. If the Government had any difficulties, certainly they ought to have taken the Council into confidence and explained to us what their difficulties were. They simply say that they are going to alter the manner in which these payments are adjusted. They had no doubt agreed in 1947 to pay the difference between the net income and the average income for the previous faslis. The Government ought to have stuck to that. On the other hand, they now seek to provide for the payment of the difference in some other way, viz., the difference between the net income according to the old rates of rent and that according to the reduced rates of rent for the cultivated lands without reference to the income in the previous fasli. The Government previously agreed to calculate the net average income for five faslis consciously knowing that it would be to the best interests of the religious, educational and charitable institutions. When they agreed to this, they had taken into account various other factors and conditions now laid down in the Bill. I may, however, point out that there has been no change of circumstances. No reason has been put forward to justify the Government's going back upon the principle which they had already enuniciated. I think the Government should not fight shy of the original provision. I do not agree with the Government in this matter."

* SRI K. BHASHYAM :—" Sir, I will be very brief. I only want to point out the practical difficulties in calculating the adjustments made in respect of this matter. When this Act was first introduced, there was objection from all sections of the House to this provision. All of them said that the religious, educational and charitable institutions should not be deprived of the income which they were enjoying at that time. In order to purchase peace, the Government agreed to compensate them in a way. I was one of those strong opponents to this kind of reduction of rents. As a sort of compromise between the opponents to the Bill and the Government, an agreement was reached and the provision which is found in the original Act was incorporated. Now, if the Government go back upon the arrangement agreed to previously, it is not fair. Of course, the Government have got wide powers and they can bring in any legislation they like. But, it is not right or proper for them to go back upon their own promises. I would like the Hon. the Minister in charge of this Bill to kindly go through the proceedings of the Assembly for that period. As a matter of fact, long negotiations took place between

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the Government and those who were in opposition. When I say 'those in opposition' I do not merely refer to those hon. Members who sat on the Opposition Benches, but even to those who were on the Congress side and who were opposed to this provision. As a result of these negotiations, a compromise was arrived at. So, I request the Hon. the Minister in charge of this Bill to kindly look into this matter.

"I will refer to one other practical difficulty and leave it at that. About the provision relating to retrospective effect, we have repeatedly objected to the giving of retrospective effect. But the Government have been going on merrily with such provisions. I will just explain this point so far as the present Bill goes. Suppose the Government have been paying Rs. 200 in cash to a particular institution in a year for about five years. If they want to collect from this institution a sum of Rs. 1,000 by way of arrears, what happens to the institution? Is it to be closed down? In certain other cases, after making adjustments towards arrears, there will be practically nothing left to be given to the institution concerned. In such cases, is the temple to be closed down? Is the school to be closed down? Is the choultry to be closed down? This is the real difficulty which I would like to point out in this connection. People do not realize the seriousness of the situation that will be created by such a provision. It is not merely a question of breach of faith. A number of institutions will be closed at least for a temporary period of one year. This is the real difficulty of giving restrospective effect. English Law abhors 'retrospective effect'. Indian Law also abhors 'retrospective effect'. If the Government had incorporated this provision when the Estates Land (Reduction of Rent) Act, 1947, was first introduced I can say, with all the knowledge that I possess, that that Act would not have been passed. Therefore, it is not quite correct to have such a provision in the amending Bill. I beg leave to ask the Government not to proceed with this Bill."

* THE HON. SRI M. A. MANICKAVELU NAICKER :— "Mr. Chairman, Sir, with great respect to the hon. Members who are also learned lawyers, I wish to state that the object of the Government in bringing forward this measure is only to enunciate a correct principle and not to have a wrong principle as hon. Member Sri K. Balasubramanya Iyer said. The object of the Estates Land (Reduction of Rent) Act, 1947, was to reduce the rates of rent which were rather abnormal or very heavy. With that object, the original Act was passed. As it was represented that certain religious, educational and other charitable institutions will be affected on account of the passing of the Estates Land (Reduction of Rent) Act, 1947, Section 5 (1) was incorporated. We are prepared to accept the principle that any loss sustained by the institution concerned consequent on the reduction of rent will have to be made good. If, however, the loss is due to reduction in the extent cultivated owing to adverse seasonal conditions, relinquishments, etc., or due to loss of water-rate when

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water is not taken for cultivation, why should such losses be made good under the Rent Reduction Act? When there is a reduction in income due to reasons other than rent reduction, we cannot be expected to compensate it. The object of the original Rent Reduction Act of 1947, which was passed earlier than the Madras Estates (Abolition and Conversion into Ryotwari) Act of 1948, was to make good the loss suffered by the reduction of rent. The Government, therefore, cannot make good losses suffered by the institutions on account of other causes. Hon. Member Sri K. Balasubramanya Ayyar said that the five years' average income should be taken into account. Even in calculating that average, all these factors will be taken into account. I mean the reduced extent of the land, the water rate to which the land is assessed, etc. So the average will go up and there is no reason why the average should be raised by factors other than rate of rent reduction. 4-30 p.m.

" Then, Sir, it was said that we are now having legislation which provides for retrospective effect. In the present civilized form of our existence, we have got to have recourse to retrospective legislation. Let us take income-tax for instance. I was assessed to income-tax three or four years ago. I paid it and thought the bother was over. But to-day, I get a communication saying : ' You have got this property and that property; you have to pay Rs. 500 as income-tax.' This is an adjustment which is taking place in all departments of the Government. I cannot understand why hon. Members should object to this provision.

" The hon. Member Sri Balasubramanya Ayyar spoke as if the word ' they ' referred to Government. I say ' they ' refers to him, to Mr. Narayanaswami Pillai, to the Chairman and everybody else. It is the money given by the people to the Government that is sought to be given to these institutions here. Why should we pay from the public exchequer to reimburse losses sustained on account of causes other than reduction of rent? That is my point. He is not right in criticizing the Government in that way."

MR. CHAIRMAN :—" The question is—

' That the Madras Estates Land (Reduction of Rent) Amendment Bill, 1954 (L.A. Bill No. 32 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2 and 3 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI M. A. MANICKAVELU NAICKER :—" Mr. Chairman, Sir, I move—

' *That the Madras Estates Land (Reduction of Rent) Amendment Bill, 1954 (L.A. Bill No. 32 of 1954), as passed by the Assembly, be passed into law.*' "

MR. CHAIRMAN :—" Motion moved—

'That the Madras Estates Land (Reduction of Rent) Amendment Bill, 1954 (L.A. Bill No. 32 of 1954), as passed by the Assembly, be passed into law.' "

* SRI K. BHASHYAM :—" I want to say a few words on the reference made by the Hon. the Minister for Revenue to the income-tax provisions. He forgets that under the income-tax provisions, old assessments are raked up because the assessees prepare accounts falsely and fraudulently. The Government lose on account of these malpractices, and they provide for such penalties as fines, etc. in respect of such matters. How can the Government apply such a principle to a case like this? Under an arrangement with th eGovernment, the payments have been going on openly, and no question of dishonesty arises here. So, it is not fair to apply that principle here. To apply it is simply iniquitous and it will lead to a serious consequence, namely, closing down of a number of institutions."

MR. CHAIRMAN :—" The question is—

" That the Madras Estates Land (Reduction of Rent) Amendment Bill, 1954 (L.A. Bill No. 32 of 1954), as passed by the Assembly, be passed into law."

The motion was carried and the Bill was passed into law.

(6) THE SOCIETIES REGISTRATION (MADRAS AMENDMENT) BILL, 1954 (L.A. BILL NO. 35 OF 1954)

* THE HON. SRI M. BHAKTAVATSALAM :—" Sir, I move—

'*That the Societies Registration (Madras Amendment) Bill* [a], *1954 (L.A. Bill No. 35 of 1954) as passed by the Assembly, be taken into consideration.*'

4-40 p.m. Sir, this is a very simple amendment which seeks to substitute the Inspector-General of Registration for the Registrar of Joint Stock Companies for the administration of the Societies Registration Act, 1860. Formerly, the Indian Companies Act was administered by the State Government but the Government of India have now taken over its administration. The Registrar of Joint Stock Companies will hereafter be under the administrative control of the Government of India. The amendment seeks to make the Inspector-General of Registration the officer to be in charge of the Societies Registration Act, 1860, which will be administered by the Government of Madras."

MR. CHAIRMAN :—" The question is—

'That the Societies Registration (Madras Amendment) Bill, 1954 (L.A. Bill No. 35 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

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[a] Printed as Appendix VII on pages 526–527 infra.